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7 Attorneys for Complainant

8 BEFORE THE DIVISION OF MEDICAL QUALITY
9 BOARD OF MEDICAL QUALITY ASSURANCE
10 DEPARTMENT OF CONSUMER AFFAIRS
11 STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against:

) No. D-1816

14 ✓ MARION SMITH, M.D.
15 License No. A16016

) STIPULATION AND

16 JOHN JENNINGS, M.D.
17 License No. G7872

) ORDER

18 DALE CURTIS, M.D.
19 License No. A17417

20 WILLIAM T. HILLYARD, M.D.
21 License No. A28981,

22 Respondents.

23 IT IS HEREBY STIPULATED by and between the above named
24 respondents, together with their attorney, Ronald R. Heumann, Esq;
25 and John P. Cosentino, M.D., Acting Executive Director of the
26 Board of Medical Quality Assurance of the State of California, by
27 and through his attorney, Evelle J. Younger, Attorney General of
the State of California by Barry D. Ladendorf, Deputy Attorney

1 General, as follows:

2 1. An Accusation and Amended Accusation has been duly
3 served upon the respondents and on July 9, 1976, the respondents
4 and each of them filed a Notice of Defense.

5 2. Respondents and each of them admit the truth of the
6 charges and allegations set forth in paragraphs 1 through 21 of
7 the original Accusation and paragraphs 22 through 24 of the
8 Amended Accusation on file herein.

9 3. Respondent Marion Smith, M.D., presently holds a
10 Physician's and Surgeon's License No. A16016 issued by the Board
11 of Medical Examiners of the State of California.

12 Respondent John Jennings, M.D., presently holds a
13 Physician's and Surgeon's License No. G7872 issued by the Board
14 of Medical Examiners of the State of California.

15 Respondent Dale Curtis, M.D., presently holds a
16 Physician's and Surgeon's License No. A17417 issued by the Board
17 of Medical Examiners of the State of California.

18 Respondent William T. Hillyard, M.D., presently
19 holds a Physician's and Surgeon's License No. A28981 issued by
20 the Board of Medical Examiners, State of California.

21 4. On or about August 29, 1974, a Certificate of
22 Approval was issued to respondent Marion Smith, by the Board
23 of Medical Quality Assurance granting to respondent Smith approval
24 to supervise physician's assistant John Steven Howard.

25 On or about August 29, 1974, a Certificate of
26 Approval was issued to respondent John Jennings by the Board
27 of Medical Quality Assurance granting to respondent Jennings

1 approval to supervise physician's assistant John Steven Howard.

2 On or about November 20, 1975, a Certificate of
3 Approval was issued to respondent, Dale Curtis by the Board of
4 Medical Quality Assurance granting to respondent Curtis approval
5 to supervise physician's assistant John Steven Howard.

6 On or about August 29, 1974, a Certificate of
7 Approval was issued to respondent William T. Hillyard by the
8 Board of Medical Quality Assurance granting to respondent Hillyard
9 approval to supervise physician's assistant John Steven Howard.

10 5. Respondents and each of them have retained Ronald
11 Heumann, Esq., attorney at law as their attorney to represent
12 them in regard to the administrative action arising out of
13 the Accusation and Amended Accusation aforementioned.

14 6. Respondents and each of them fully understand the
15 nature and the extent of the statements, charges and allegations
16 set forth in the Accusation and Amended Accusation filed against
17 them.

18 7. Respondents and each of them are fully aware of
19 their right to have a hearing on the Accusation and Amended
20 Accusation filed against them, including their right to reconsid-
21 eration, right to appeal, and to any and all other rights which
22 may be accorded to them pursuant to the California Administrative
23 Procedure Act.

24 8. Respondents and each of them do freely and
25 voluntarily waive their right to have a hearing on the Accusation
26 filed against them, their right to reconsideration, their right
27 to appeal and to any and all other rights which may be accorded

1 to them by the California Administrative Procedure Act with regard
2 to these charges, and do hereby elect to withdraw their Notice of
3 Defense heretofore filed in this action and to proceed by way of
4 this Stipulation and Order.

5 9. In the event the instant Stipulation and Order is
6 not adopted by the Board of Medical Quality Assurance, the
7 admissions and characterizations of law and fact made by all
8 parties herein shall be null, void, and inadmissible in any
9 proceeding involving the parties to it.

10 WHEREFORE, it is stipulated that the Board of Medical
11 Quality Assurance may enter the following proposed Order:

12 1. Respondent Marion Smith's Certificate of
13 Approval to supervise physician's assistant, John Steven
14 Howard, is hereby suspended for a period of sixty (60)
15 days, said suspension stayed for a period of one year on
16 the condition that respondent not violate any of the
17 provisions of the State Medical Practice Act or any rule,
18 regulation or statute of the State of California governing
19 the activities of physician's assistants.

20 2. Respondent John Jennings' Certificate of
21 Approval to supervise physician's assistant, John Steven
22 Howard, is hereby suspended for a period of sixty (60)
23 days, said suspension stayed for a period of one year on
24 the condition that respondent Jennings violate no provision
25 of the State Medical Practice Act or any rule, regulation
26 or statute of the State of California governing physician's
27 assistants.

1 3. Respondent William T. Hillyard's Certificate of
2 Approval to supervise physician's assistant, John Steven
3 Howard, is hereby suspended for a period of thirty (30)
4 days, said suspension is stayed for a period of six months
5 on the condition that respondent violate no provision of the
6 State Medical Practice Act or any rule, regulation or
7 statute of the State of California governing physician's
8 assistants.

9 4. Respondent Dale Curtis' Certificate of Approval
10 to supervise physician's assistant, John Steven Howard, is
11 hereby suspended for a period of six months, said suspension
12 is stayed for a period of one year on the condition that
13 respondent Curtis' Certificate of Approval is actually
14 suspended for a period of five days commencing on the
15 effective date of this Order, and on the further condition
16 that respondent violate no provision of the State Medical
17 Practice Act or any rule, regulation or statute of the State
18 of California governing physician's assistants.

19 5. Upon completion of the one year probationary
20 period for respondents Smith, Jennings and Curtis, and full
21 compliance with all the terms and conditions set forth
22 above, probation shall be terminated and the stay on the
23 suspension of the Certificate of Approval issued to
24 respondents, Marion Smith, John Jennings, and Dale Curtis
25 shall become permanent.

26 6. Upon completion of the six month probationary
27 period for respondent William T. Hillyard, and full

1 compliance of all the terms and conditions set forth
2 above, probation shall be terminated and the stay
3 on the suspension of the Certificate of Approval issued
4 to respondent William T. Hillyard, shall become permanent.

5 7. During the period of actual suspension of the
6 Certificate of Approval, respondent Dale Curtis, M.D.,
7 shall be deprived of exercising privileges granted by
8 Certificate of Approval to supervise physician's assistant,
9 John Steven Howard.

10 8. In the event that during the period of probation,
11 wherein the respondents or each of them is in violation of
12 any of the terms and conditions of the Order of probation,
13 said respondent and each of them shall be given notice and
14 a hearing shall be held to determine whether the Board of
15 Medical Quality Assurance shall set aside the stay and
16 impose the Order of suspension, or make such other order
17 modifying or changing the stay order as it shall deem
18 just and proper.

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1 I have read and understand the above Stipulation and
2 proposed Order of the Board of Medical Quality Assurance. I
3 hereby withdraw my Notice of Defense and elect to proceed by way
4 of this Stipulation and proposed Order.

5 Dated this 27 day of December, 1976.

6 Marion Smith
7 MARION SMITH, M.D.

8 John Jennings
9 JOHN JENNINGS, M.D.

10 Dale Curtis
11 DALE CURTIS, M.D.

12 William T. Hillyard
13 WILLIAM T. HILLYARD, M.D.

14 Respondents

15 Ronald R. Heumann
16 RONALD R. HEUMANN
17 Attorney for Respondents

18 I have read the foregoing and concur and join in the
19 Stipulation and proposed Order.

20 Dated this 17 day of January, 1977.

21 Joseph P. Cosentino
22 JOSEPH P. COSENTINO, M.D.
23 Acting Executive Director
24 Board of Medical Quality Assurance
25 State of California
26 Complainant

27 EVELLE J. YOUNGER, Attorney General

DATED: Jan 5, 1977

BY Barry D. Ladendorf
BARRY D. LADENDORF,
Deputy Attorney General

1 The foregoing Stipulation and proposed Order are
2 hereby adopted as the decision by the President of the Division
3 of Medical Quality, Board of Medical Quality Assurance, State
4 of California effective _____, 19__.

5 IT IS SO ORDERED this _____ day of _____,
6 19__.

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10 President
11 Board of Medical Quality
12 Assurance
13 State of California
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8 BEFORE THE DIVISION OF MEDICAL QUALITY
9 BOARD OF MEDICAL QUALITY ASSURANCE
10 DEPARTMENT OF CONSUMER AFFAIRS
11 STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:)

No. D-1816

13 ✓ MARION SMITH, M.D.
14 6321 Magnolia Avenue
15 Riverside, California
16 License No. A16016

AMENDED ACCUSATION

17 JOHN JENNINGS, M.D.
18 6321 Magnolia Avenue
19 Riverside, California
20 License No. G7872

21 DALE CURTIS, M.D.
22 6321 Magnolia Avenue
23 Riverside, California
24 License No. A17417

25 WILLIAM T. HILLYARD
26 6321 Magnolia Avenue
27 Riverside, California
License No. A28981,

Respondents.)

28 COMES NOW the complainant, Raymond Reid, and amends
29 the Accusation heretofore filed, as follows:

30 22. Paragraphs 1 through 21 of the original Accusation,
31 heretofore filed, is incorporated by reference with the same

1 force and effect as though fully set forth herein.

2 23. Section 2377.5 of the Business and Professions
3 Code provides as follows:

4 "The use, supervision, or employment by a
5 physician of a graduate of an approved program
6 as defined in Section 2511, without the approval of the
7 Board of Medical Examiners of the State of California,
8 constitutes unprofessional conduct within the meaning
9 of this chapter."

10 24. Respondent Curtis is guilty of unprofessional
11 conduct as defined by section 2377.5 of the Business and Profes-
12 sions Code, in that at all times mentioned in paragraphs 15
13 through 18 of the original Accusation, respondent Curtis used,
14 supervised or employed Howard without the approval of the
15 Board of Medical Examiners of the State of California.

16 WHEREFORE, complainant requests the Division of
17 Medical Quality hold a hearing on the matters alleged in the
18 original Accusation and the amended accusation and following
19 the hearing:

20 1. Take such action against respondents, and each
21 of them, as is provided for in section 2372 of the
22 Business and Professions Code and California Administra-
23 tive Code, Title 16, section 1379.8;

24 2. Issue an order revoking, suspending or placing
25 on probation the approval granted to respondent Hillyard
26 to supervise John Stephen Howard;

27 3. Issue an order revoking, suspending or

1 placing on probation the approval granted to
2 respondent Smith to supervise John Stephen Howard;

3 4. Issue an order revoking, suspending or placing
4 on probation the approval granted to respondent Jennings
5 to supervise John Stephen Howard;

6 5. Issue an order revoking, suspending or placing
7 on probation the approval granted to respondent Curtis
8 to supervise John Stephen Howard; and

9 6. Take any other action or further action which
10 the Board deems necessary.

11 Dated: 7/6/76

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14 Raymond Reid
Executive Secretary

15 Complainant
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REDACTED

1. EVELLE J. YOUNGER, Attorney General
BARRY D. LADENDORF,
2 Deputy Attorney General
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7 BEFORE THE DIVISION OF MEDICAL QUALITY
8 BOARD OF MEDICAL QUALITY ASSURANCE
9 DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

No. D-1816

12 MARION SMITH, M.D.
13 6321 Magnolia Avenue
Riverside, California
License No. A16016

ACCUSATION

14 JOHN JENNINGS, M.D.
15 6321 Magnolia Avenue
Riverside, California
16 License No. G7872

17 DALE CURTIS, M.D.
18 6321 Magnolia Avenue
Riverside, California
19 License No. A17417

20 WILLIAM T. HILLYARD
6321 Magnolia Avenue
Riverside, California
21 License No. A28981,

22 Respondents.

23
24 Complainant, Raymond Reid, alleges:

25 1. He is the Executive Secretary of the Board of Medical
26 Quality Assurance of the State of California and makes this Accusa-
27 tion in his official capacity.

1 2. Respondent Marion Smith, M.D. (hereinafter referred
2 to as respondent Smith) has been issued Physician's and Surgeon's
3 Certificate No. A16016 by the Board, and was, and is now licensed
4 to practice medicine and surgery in the State of California.

5 Respondent John Jennings, M.D. (hereinafter referred to
6 as respondent Jennings) has been issued Physician's and Surgeon's
7 Certificate No. G7872 by the Board, and was, and is now licensed
8 to practice medicine and surgery in the State of California.

9 Respondent Dale Curtis, M.D. (hereinafter referred to as
10 respondent Curtis) has been issued Physician's and Surgeon's
11 Certificate No. A17417 by the Board, and was, and is now licensed
12 to practice medicine and surgery in the State of California.

13 Respondent William T. Hillyard, M.D. (hereinafter
14 referred to as respondent Hillyard) has been issued Physician's and
15 Surgeon's Certificate No. A28981 by the Board, and was, and is now
16 licensed to practice medicine and surgery in the State of California.

17 3. On or about August 29, 1974, a Certificate of
18 Approval was issued to respondent Smith, by which the Board granted
19 to respondent Smith approval to supervise physician's assistant
20 John Stephen Howard (hereinafter referred to as Howard).

21 On or about August 29, 1974, a Certificate of Approval
22 was issued to respondent Jennings, by which the Board granted to
23 respondent Jennings approval to supervise physician's assistant
24 Howard.

25 On or about November 20, 1975, a Certificate of Approval
26 was issued to respondent Curtis, by which the Board granted to
27 respondent Curtis approval to supervise physician's assistant
28 Howard.

1 On or about August 29, 1974, a Certificate of Approval
2 was issued to respondent Hillyard, by which the Board granted to
3 respondent Hillyard approval to supervise physician's assistant
4 Howard.

5 4. California Administrative Code, Title 16, section
6 1379.8 provides in part, that the Board may revoke, suspend or
7 place on probationary status the approval granted to a physician
8 to supervise a particular physician's assistant when the Board finds
9 any of the following:

10 "(a) The approved Supervising Physician
11 has been guilty of unprofessional conduct as
12 defined in Chapter 5 of Division 2 of the
13 Business and Professions Code.

14 "(b) The Physician's Assistant has
15 rendered medical services not authorized under
16 this article regardless of whether or not the
17 approved Supervising Physician had knowledge
18 of the unauthorized act or acts.

19 "(c) The approved Supervising Physician
20 has failed to exercise the applicable super-
21 vision required under this Article.

22 ". . . .

23 "(h) Failure of the Supervising Physician
24 to obtain the required consent as set forth in
25 section 13792 herein."

26 5. California Administrative Code, Title 16, section
27 1397.2 provides in part, as follows:

1 "No Assistant to the Primary Care
2 Physician or Specialist Physician shall
3 render general medical services to any
4 patient except in emergencies unless said
5 patient has first been informed that such
6 services will be rendered by that Assistant
7 and has consented thereto in writing

8 "It shall be the responsibility of
9 the supervising Primary Care Physician
10 or Specialist Physician to obtain the consent
11 herein required"

12 6. Business and Professions Code section 2392 provides,
13 as follows:

14 "The employing, directly or indirectly,
15 of any suspended or unlicensed practitioner
16 in the practice of any system or mode of
17 treating the sick or afflicted or the aiding
18 or abetting of any unlicensed person to
19 practice any system or mode of treating the
20 sick or afflicted constitutes unprofessional
21 conduct within the meaning of this chapter."

22 7. At all times herein mentioned, the nurses, recep-
23 tionists, and employees of respondents Jennings, Smith, Curtis and
24 Hillyard were the agents of, and acted as the agents of each said
25 respondent.

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MARY T. [REDACTED] MATTER

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2 8. On or about October 7, 1975, at or about the hour of
3 12:45 p.m., Mrs. Mary T. [REDACTED] took her daughter, Judy, to the
4 Arlington-University Clinic. At said time, Howard, a physician's
5 assistant was employed by the respondents, and each of them, and
6 committed said acts in respondents' offices. Mrs. T. [REDACTED] made the
7 appointment to be examined by Howard through respondents' recep-
8 tionist. At said time, Howard examined Mrs. T. [REDACTED] daughter,
9 Judy, and advised Mrs. T. [REDACTED] that her daughter had croup. Howard
10 told Mrs. T. [REDACTED] to take her daughter home, put her under a
11 vaporizer and give her the medicine that he was going to prescribe
12 for her. Howard then wrote out a written prescription for Mrs.
13 T. [REDACTED] daughter and told her to hold on to the prescription in
14 case the other medications he was going to have his nurse phone in
15 did not work.

16 Respondent Jennings did not review separately, or together
17 with both the patient and Howard, the findings of the history,
18 physical examination and diagnostic procedure undertaken by Howard
19 before the institution of the therapeutic procedure. Said conduct
20 by respondent Jennings is a cause for disciplinary action under
21 California Administrative Code, Title 16, section 1379.8(c).

22 9. Respondent Jennings failed to first inform Mrs.
23 T. [REDACTED] that her daughter, Judy, would be treated by Howard, a
24 physician's assistant; and respondent Jennings failed to obtain
25 written consent from Mrs. T. [REDACTED] for the services performed by
26 Howard. Said conduct by respondent Jennings is a cause for
27 disciplinary action under California Administrative Code, Title 16,
28 section 1379.8(h).

1 SHIRLEY P. [REDACTED] MATTER

2 10. On or about October 7, 1975, Mrs. Shirley P. [REDACTED]
3 called Arlington-University Clinic for an appointment with her
4 doctor, respondent Smith. She was advised by respondent Smith's
5 nurse that he was away for three weeks vacation but that she could
6 be seen by Howard.

7 11. On said date, Howard examined Mrs. P. [REDACTED] and
8 diagnosed her condition as kidney stones. Howard advised her that
9 he would have a prescription for medication phoned into a pharmacy
10 for her. Respondent Smith did not review separately, or together
11 with both the patient and Howard the findings of the history,
12 physical examination and diagnostic procedure undertaken by Howard
13 before the institution of the therapeutic procedures.

14 Said conduct by respondent Smith is a cause for
15 disciplinary action under California Administrative Code, Title 16,
16 section 1379.8(c).

17 12. Respondent Smith failed to first inform Mrs. P. [REDACTED]
18 that she would be treated by Howard, a physician's assistant; and
19 respondent Smith failed to obtain written consent from Mrs. P. [REDACTED]
20 for services performed by Howard. Said conduct by respondent
21 Smith is a cause for disciplinary action under California
22 Administrative Code section 1379.8(h).

23 DEBORAH S. [REDACTED] MATTER

24 13. On or about July 10, 1975, Mrs. Deborah S. [REDACTED] went
25 to Arlington-University Clinic for follow-up care following a foot
26 injury. On that date she was examined and treated by Howard, who
27 directed that she receive a tetanus shot and a prescription for
28 ampicillin.

1 The respondents, and each of them, failed to review
2 separately, or together with both the patient and Howard the find-
3 ings of the history, physical examination and diagnostic procedure
4 undertaken by Howard before the institution of the therapeutic
5 procedure. Said conduct by respondents, and each of them, is a
6 cause for disciplinary action under California Administrative Code,
7 Title 16, section 1379.8(c).

8 14. Respondents, and each of them, failed to first inform
9 Mrs. S [REDACTED] that Howard was a physician's assistant and failed to
10 obtain written consent from Mrs. S [REDACTED] for the services
11 performed by Howard. Said conduct by respondents, and each of
12 them, is a cause for disciplinary action under California
13 Administrative Code, Title 16, section 1379.8(h).

14 15. On or about September, 1975, Mrs. Katherine H [REDACTED]
15 called the Arlington-University Clinic for an appointment for her
16 son, Jimmy, to see respondent Curtis. Mrs. H [REDACTED] was advised
17 by a nurse at the clinic that respondent Curtis was not available,
18 but that she could have her son examined by Howard.

19 Howard examined Mrs. H [REDACTED] son and gave Mrs.
20 H [REDACTED] office samples of medication called pediamycin, to be
21 taken by her son.

22 Respondent Curtis failed to review separately, or
23 together with the patient and Howard the findings of the history,
24 physical examination and diagnostic procedure undertaken by Howard
25 before institution of the therapeutic procedure. Said conduct by
26 respondent Curtis is cause for disciplinary action under Califor-
27 nia Administrative Code, Title 16, section 1379.8(c).

1 16. Respondent Curtis failed to first inform Mrs.
2 H[REDACTED] that Howard was a physician's assistant; and failed to
3 obtain written consent from Mrs. H[REDACTED] for the services
4 performed by Howard. Said conduct by respondent Curtis is a
5 cause for disciplinary action under California Administrative Code,
6 Title 16, section 1379.8(h).

7 17. On or about October 13, 1975, Mrs. H[REDACTED] called
8 the Arlington-University Clinic for an appointment with respondent
9 Curtis for her daughter, Brenda. Mrs. H[REDACTED] was advised by a
10 nurse at the clinic that respondent Curtis was not available, but
11 that Howard could see her daughter.

12 Howard examined Brenda and diagnosed her condition as a
13 virus infection. Howard told Mrs. H[REDACTED] that he would have his
14 nurse phone in a prescription for Brenda for penicillin and also
15 for a solution to be used in her mouth, xylocaine hiscous.

16 Respondent Curtis failed to review separately, or
17 together with the patient and Howard the findings of the history,
18 physical examination and diagnostic procedure undertaken by Howard
19 before institution of theraputic procedure. Said conduct by
20 respondent Curtis is a cause for disciplinary action under
21 California Administrative Code, Title 16, section 1379.8(c).

22 18. At all times mentioned in paragraphs 15, 16 and 17
23 above, respondent Curtis did not have a Certificate of Approval by
24 the Board to supervise physician's assistant Howard.

25 19. At all times mentioned in paragraphs 15, 16 and 17
26 above, Howard was not a licensed physician, and was employed by
27 respondent Curtis and committed said acts in said respondent's
28 office.

1 20. The license of respondent Curtis is subject to
2 disciplinary action pursuant to section 2392 of the Business and
3 Professions Code and California Administrative Code, Title 16,
4 section 1379.8(a) in that respondent Curtis aided and abetted
5 Howard in the commission of said acts as alleged in paragraphs 15,
6 16 and 17 above.

7 21. The license of respondent Curtis is subject to
8 disciplinary action pursuant to section 2392 of the Business and
9 Professions Code and California Administrative Code, Title 16,
10 section 1379.8(a), in that respondent Curtis employed Howard, who
11 he knew was not licensed as a physician, with the knowledge that
12 Howard was committing the acts as alleged in paragraphs 15, 16 and
13 17 above, and knowingly aided and abetted Howard in the commission
14 of said acts as alleged.


15 WHEREFORE, complainant requests the Division of Medical
16 Quality to hold a hearing on the matters alleged, and following the
17 hearing:

18 1. Take such action against respondents,
19 and each of them, as is provided for in section
20 2372 of the Business and Professions Code and
21 California Administrative Code, Title 16,
22 section 1379.8;

23 2. Issue an order revoking, suspending
24 or placing on probation the approval granted
25 to respondents Hillyard, Smith, Jennings and
26 Curtis, to supervise John Stephen Howard;
27 and

1 3. Take any other action or further action
2 which the Board deems necessary.

3 Dated: 6/18/76

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6 Raymond Reid
7 Executive Secretary
8 Board of Medical Quality Assurance
9 Department of Consumer Affairs
10 State of California

11 Complainant
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DUPT PAPER
STATE OF CALIFORNIA
FD 113 (REV. 8-72)

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